

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

JERRY BURGOS,	:	
	:	
Petitioner	:	CIVIL ACTION NO. 1:08-0478
	:	
v.	:	(CONNER, D.J.)
	:	(MANNION, M.J.)
ROBERT D. SHANNON and	:	
PA STATE ATTORNEY GENERAL,	:	
	:	
Respondents	:	
	:	

REPORT AND RECOMMENDATION

By way of background, on October 24, 2007, the petitioner, through counsel, filed a petition for writ of habeas corpus pursuant to 28 U.S.C. §2254. That petition was assigned to civil action number 1:07-CV-1948. The 120 days to effectuate service had passed with no indication from the petitioner's counsel that service had been made. As a result, an order was issued on March 6, 2008, directing counsel to show cause why the petition should not be dismissed. (Doc. No. 2).

On March 12, 2008, a waiver of service was filed by counsel for the petitioner, (Doc. No. 3), along with a response to the court's order to show cause, (Doc. No. 4).

On March 14, 2008, counsel for the petitioner filed a second habeas corpus petition, assigned to the above-captioned civil action number, which is identical to the one filed in 1:07-CV-1948. This court will recommend that

this new petition be closed in light of the previous, still pending, habeas petition.

On the basis of the foregoing, **IT IS RECOMMENDED THAT:**

the instant action be **DISMISSED** as duplicative

s/ Malachy E. Mannion

MALACHY E. MANNION

United States Magistrate Judge

Date: April 14, 2008

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